

(2) That the State highway department shall be promptly notified prior to contract award of the receipt by the bidder of any communication from the Director, Office of Federal Activities, EPA, indicating that a facility to be utilized for the contract is under consideration to be listed on the EPA List of Violating Facilities.

## PART 634—WORKER VISIBILITY

Sec.

634.1 Purpose.

634.2 Definitions.

634.3 Rule.

634.4 Compliance date.

AUTHORITY: 23 U.S.C. 101(a), 109(d), 114(a), 315, and 402(a); Sec. 1402 of Pub. L. 109-59; 23 CFR 1.32; and 49 CFR 1-48(b).

SOURCE: 71 FR 67800, Nov. 24, 2006, unless otherwise noted.

EFFECTIVE DATE NOTE: At 71 FR 67800, Nov. 24, 2006, part 634 was added, effective Nov. 24, 2008.

### § 634.1 Purpose.

The purpose of the regulations in this part is to decrease the likelihood of worker fatalities or injuries caused by motor vehicles and construction vehicles and equipment while working within the right-of-way on Federal-aid highways.

### § 634.2 Definitions.

*Close proximity* means within the highway right-of-way on Federal-aid highways.

*High-visibility safety apparel* means personal protective safety clothing that is intended to provide conspicuity during both daytime and nighttime usage, and that meets the Performance Class 2 or 3 requirements of the ANSI/ISEA 107-2004 publication entitled "American National Standard for High-Visibility Safety Apparel and Headwear." This publication is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51 and is on file at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741-6030, or go to [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html). It is available for inspection and copying at the Federal Highway Administration, 400 Seventh

Street, SW., Room 4232, Washington, DC, 20590, as provided in 49 CFR Part 7. This publication is available for purchase from the International Safety Equipment Association (ISEA) at 1901 N. Moore Street, Suite 808, Arlington, VA 22209, <http://www.safetysafetyequipment.org>.

*Workers* means people on foot whose duties place them within the right-of-way of a Federal-aid highway, such as highway construction and maintenance forces, survey crews, utility crews, responders to incidents within the highway right-of-way, and law enforcement personnel when directing traffic, investigating crashes, and handling lane closures, obstructed roadways, and disasters within the right-of-way of a Federal-aid highway.

### § 634.3 Rule.

All workers within the right-of-way of a Federal-aid highway who are exposed either to traffic (vehicles using the highway for purposes of travel) or to construction equipment within the work area shall wear high-visibility safety apparel.

### § 634.4 Compliance date.

States and other agencies shall comply with the provisions of this Part no later than November 24, 2008.

## PART 635—CONSTRUCTION AND MAINTENANCE

### Subpart A—Contract Procedures

Sec.

635.101 Purpose.

635.102 Definitions.

635.103 Applicability.

635.104 Method of construction.

635.105 Supervising agency.

635.106 Use of publicly owned equipment.

635.107 Participation by disadvantaged business enterprises.

635.108 Health and safety.

635.109 Standardized changed condition clauses.

635.110 Licensing and qualification of contractors.

635.111 Tied bids.

635.112 Advertising for bids and proposals.

635.113 Bid opening and bid tabulations.

635.114 Award of contract and concurrence in award.

635.115 Agreement estimate.

635.116 Subcontracting and contractor responsibilities.